

**BEFORE THE HEARING EXAMINER
FOR THE CITY OF ISSAQUAH**

In the Matter of the Application of)	No. PP13-00004
)	
)	
Mostafa Ghoreishi)	Maleki Preliminary Plat
)	
)	FINDINGS, CONCLUSIONS,
<u>For Approval of a Preliminary Plat</u>)	AND DECISION

SUMMARY OF DECISION

The request for a preliminary plat to subdivide 2.13 acres into eight cluster-housing, single-family lots with three tracts at 1025/1035 Front Street South is **APPROVED**. Conditions are necessary to mitigate specific impacts of the proposed development.

SUMMARY OF RECORD

Meeting Date:

The Hearing Examiner held a public hearing on the request on March 4, 2014.

Testimony:

The following individuals presented testimony under oath at the meeting:

Peter Rosen, City Senior Environmental Planner
Mostafa Ghoreishi, Applicant
Tom Redding, Applicant's Engineer

Exhibits:

The following exhibits were admitted into the record:

1. Land Use Permit Application, received June 24, 2013; Affidavit of Ownership, dated June 13, 2013
2. Vicinity map, undated
3. Project narrative, received June 24, 2013
4. Ghoreishi Plat (Sheets 1-2), dated August 14, 2013
5. Conceptual Building, Access & Utility Plan (Sheet 1 of 1), revised November 15, 2013
6. Landscape Plan (Sheets LA-1 and LA-2), revised February 12, 2004
7. Altmann Oliver Associates, LLC, Critical Area Study, dated August 20, 2013
8. Final Mitigation Plan Buffer Reduction & Enhancement Plan; Planting Details; Construction Specifications (Sheets W1.1 to W3.1), revised November 19, 2013
9. Certificate of Transportation Concurrence, No. CON13-00014, dated December 27, 2013
10. Preliminary Technical Information Report, dated February 6, 2014
11. Affidavits of Notice of Application and Notice of Public Hearing

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12. Emails from Ryan Batura to Peter Rosen, dated September 24, 2013; Marilyn Batura to Peter Rosen, dated September 24, 2013; and Marilyn and Rich Batura to Peter Rosen, dated January 10, 2014
13. City of Issaquah River & Streams Board, neighborhood public meeting, meeting minutes, dated September 17, 2013
14. Environmental Checklist, dated January 14, 2014
15. Mitigated Determination of Nonsignificance, dated January 22, 2014
16. Staff Report

The Hearing Examiner enters the following Findings and Conclusions based upon the testimony and exhibits admitted at the public hearing:

FINDINGS

Application and Notice

1. Mostafa Ghoreishi (Applicant), requests a preliminary plat to subdivide four lots, 2.13 acres, into eight cluster-housing, single-family lots with three tracts: a critical area wetland tract (Tract A) and two common open-space areas (Tracts B, C). The property is addressed as 1025/1035 Front Street South.¹ *Exhibit 1; Exhibit 4; Exhibit 16, Staff Report, pages 1 and 2,*
2. The City of Issaquah (City) determined the application was complete on August 23, 2013. The City mailed notice of the application and neighborhood meeting to adjacent property owners on September 6, 2013. The City published notice of the public hearing on the application in *The Issaquah Press* on February 12, 2014, and mailed notice to adjacent property owners on February 13, 2014. The Applicant posted notice of the open record hearing on the property.² *Exhibit 11; Exhibit 16, Staff Report, page 2.*

State Environmental Policy Act (SEPA)

3. The City acted as lead agency and analyzed the environmental impacts of the proposed project as required by SEPA, chapter 43.21C RCW. The City reviewed the Applicant's environmental checklist and other available information, and determined that, with seven conditions, the proposed project would not have a probable significant adverse impact on the environment. The City issued a Mitigated Determination of Nonsignificance (MDNS) on January 22, 2014.³ The Applicant's Environmental Checklist identified

¹ The subject property is identified by Tax Assessor Parcel Nos. 342406-9156, -9356, -9357, and -9358. The property was short platted into four lots in 2005. The application includes a legal description of the property. *Exhibit 1; Exhibit 3; Exhibit 16, Staff Report, page 2.*

² The affidavit of sign installation is not dated. It was subscribed and sworn on December 3, 2013. *Exhibit 11.*

³ City Senior Planner Peter Rosen testified that Exhibit 15 should be identified as a Mitigated Determination of Nonsignificance, not a Revised MDNS. *Testimony of Mr. Rosen.*

hawks, songbirds, deer, beaver, salmon, and trout as having been observed or as known to be on or near the site. *Exhibit 14; Exhibit 15; Exhibit 16, Staff Report, page 13.*

Comprehensive Plan, Zoning, and Surrounding Property

4. The property is designated Low Density Residential (LDR) by the City Comprehensive Plan. The purpose and intent of the LDR designation is:

to provide a variety of housing types and densities within a full range of urban services. The primary use in this designation is housing. The appropriate density of the individual residential zoning districts is based on the availability of urban services and the proximity to local streets, arterials and pedestrian access. Those areas with critical areas shall be appropriate for low density residential, with the intent to protect environmentally critical areas from impacts associated with more intensive development. These environmentally critical areas are valued as a community resource, both for conservation purposes and public enjoyment; provided, that the environmentally critical areas are protected, low density single family residential use may be appropriate.
City Comprehensive Plan, Land Use Element, page L-11.

The property is located within the “Sycamore” Subarea of the Comprehensive Plan. *Exhibit 16, Staff Report, page 2.*

5. The property is located within the City’s Single-Family Suburban (SF-S) zoning district. The purpose of the SF-S district is:

provide for single family neighborhoods in an urban setting while buffering these neighborhoods from commercial services. Permitted uses include detached single family homes. ... In addition to the objectives stated in the Purpose and Intent section of this chapter, the following objectives also apply to this district:

1. Establish and preserve residential neighborhoods for detached single family units free from other uses except those which are compatible with, and serve the residents of, this district;
2. Discourage through arterial traffic which does not serve the affected single family neighborhoods; and
3. Provide opportunity for single family residential development in areas served by public and urban services.

Issaquah Municipal Code (IMC) 18.06.100.C.

Single-family residential development at a maximum density of 4.5 dwelling units per acre is allowed within the SF-S zoning district. *IMC Table 18.07.360.*

6. Surrounding residences are zoned SF-S. Single-family residences are located to the north and northwest, with townhouses located across Front Street South to the Northeast. Single-family residences are located to the southeast, with a large wetland associated

with Lewis Creek and Issaquah Creeks located to the south and west. The wetland complex is zoned Community Facilities – Open Space (CF-OS). *Exhibit 10; Exhibit 16, Staff Report, page 4.*

Existing Conditions

7. The 2.13-acre site is irregular in shape with the northeast property line fronting Front Street South (Issaquah-Hobart Road), which runs northwest to southeast. The site contains lawn, trees, a wetland, and two residences that would be removed. The site is fairly flat, sloping down to the southwest at one to three percent towards the on-site wetland. *Exhibit 10; Exhibit 16, Staff Report, page 2.*

Proposed Development

8. The Applicant proposes to subdivide the property into eight single-family residential lots, using cluster-housing development. Cluster housing allows development standards in the underlying SF-S zone to be varied. *IMC 18.07.420.A.*⁴ The Applicant proposes to construct single-family residences on each lot, with two residences attached by a common wall (townhouses). The proposed development exceeds the required minimum of two acres and would not exceed the SF-S zone density of 4.5 dwelling units per acre (du/acre) or eight du/acre with the transfer of density credit due to critical areas on-site. *IMC 18.10.450.*⁵ Lots within the SF-S zoning district must contain 20-foot front yard setbacks, 10-foot rear yard setbacks, and eight-foot side yard setbacks. There is a 70-foot minimum lot width. Buildings may not be more than 30 feet tall. Lots must be at least 9,600 square feet, but lot size may be reduced to accommodate density transfers from critical areas. Cluster-housing standards do not have a minimum lot size or width requirement, or a minimum pervious to impervious ratio requirement, on individual lots. No interior setbacks are required. For the proposed development, lot size would vary from 2,755 to 5,637 square feet, and lot width would vary from 30 to 37.5 feet. Exterior site setbacks would be: front yard, 60 feet; side yard, 12 feet; and rear yard, 110 feet. Maximum impervious area would be limited to 40 percent and minimum pervious area to 60 percent. Proposed maximum and minimum areas would be 24 percent and 76 percent,

⁴ IMC 18.07.420.B provides:

Purpose: The purpose of the cluster housing standards is to:

1. Achieve the maximum allowable density, as established on the District Standards Table (IMC 18.07.360), on developable land while preserving critical areas and other pervious surfaces through lot size reduction;
2. Provide more common usable and native forested open space within cluster developments that are not a part of a platted lot;
3. Encourage affordable housing through the provision of smaller lots; and
4. Provide a more efficient arrangement of structures for providing services and infrastructure.

⁵ Critical areas, including wetlands and wetland buffer areas, cannot be developed but may receive a partial, transferrable density credit. The density credit allows development density to be transferred from critical areas to developable parts of the property. IMC 18.10.450 allows 60 percent density credit when 41 to 50 percent of a site contains critical areas. The property contains 1.05 acres of wetland or wetland buffer, which is approximately 50 percent of the site. Under the density credit, 7.7 dwelling units rounded up to 8 dwelling units are allowed on the property; 8 lots are proposed. *Exhibit 16, Staff Report, page 6.*

respectively. The Applicant would fully landscape all pervious areas. Building height limits would be reviewed with building permits. City staff determined that the proposed development would meet the zero lot line standards for cluster development. *Exhibit 4; Exhibit 16, Staff Report, pages 5, 6, 8, and 10.*

Critical Areas

9. A wetland and buffer occupies approximately 1.08 acres or approximately 50 percent of the southwest corner of the site. Altmann Oliver Associates, LLC, prepared a Critical Areas Study (CAS) for the Applicant, dated August 20, 2014. The CAS verified a previous wetland delineation and confirms that a large wetland system, Wetland A, associated with Lewis Creek and Issaquah Creek, extends off-site to the south and west. This Category I wetland consists of a mix of palustrine scrub-shrub and emergent vegetation, with scattered red alder and willow, and requires a 150-foot buffer, plus a 15-foot structure setback from the wetland edge. *IMC 18.10.640.C. Exhibit 4; Exhibit 7; Exhibit 8; Exhibit 16, Staff Report, pages 1, 2, 8, 9, and 13.*
10. The Applicant proposes to reduce the wetland buffer 25 percent, to 112.5 feet, by implementing a buffer enhancement plan, as allowed by the City's critical areas regulations. *IMC 18.10.650.D.3.* The Applicant would remove invasive plants, and plant native trees and shrubs in the buffer. The Applicant would record a Native Growth Protection Easement (NGPE) over the wetland/wetland buffer and remove an existing chain link fence along the common property line with City property to allow wildlife movement. Monitoring and maintenance of the buffer enhancement area would be conducted for a minimum of five years. *Exhibit 7; Exhibit 8; Exhibit 16, Staff Report, pages 13 and 15;*
11. The City's River & Streams Board held a neighborhood public meeting on September 17, 2013, and took public comments regarding herbicide and pesticide use, water quality impacts, and flooding. These comments were summarized by the board, and placed in the record. The board also commented regarding protection of wetland and stormwater runoff. *Exhibit 13.*

Stormwater

12. Encompass Engineering & Surveying prepared a Preliminary Technical Information Report, dated February 6, 2014. The proposed development would have approximately 21,300 square feet of impervious surface. Site drainage is to the on-site wetland that extends south and west off-site to Lewis Creek, which flows west/northwest to Issaquah Creek, which discharges into Lake Sammamish. The Applicant proposes to rely on infiltration or dispersion trenches to handle stormwater runoff. The Applicant is required to meet the guidelines and requirements of both the 2009 King County Surface Water Design Manual (2009 KCSWDM), as adopted by the City, and the City's Surface Water Design Manual Addendum 2011. Peter Rosen, City Senior Environmental Planner, testified that soils in the area are known to infiltrate, and no drainage concerns have been reported. The City has requested a condition requiring the Applicant to provide more

detail on the soil type and sizing of the stormwater facility. *Exhibit 5; Exhibit 10; Exhibit 16, Staff Report pages 14 and 17; Testimony of Mr. Rosen.*

Access, Frontage, and Parking

13. Front Street South, a minor arterial, would provide access to the property via a joint driveway easement. A signalized intersection is located approximately 55 feet to the east at Front Street South and 2nd Ave SE. A SEPA mitigation condition requires the driveway access to be signed and limited to right-in/right-out turns only. City street standards require a five-foot landscape strip between curb and sidewalk. The existing Front Street South sidewalk abuts the curb. The Applicant has requested a deviation from street standards because there are no planter strips for over a mile along both sides of Front Street South adjacent to the proposed development. Mr. Rosen testified that the Public Works Director would make a decision on the requested deviation. In return, the Applicant would dedicate two feet along Front Street South to allow for future street improvements. The Applicant would provide two-car garages to meet the parking code requirement of two parking spaces per single-family residence. Driveways would be a minimum of 18 feet in length. *Exhibit 5; Exhibit 15; Exhibit 16, Staff Report, pages 13, 14, 16, and 17; Testimony of Mr. Rosen.*

Traffic

14. Mr. Rosen issued a Certificate of Transportation Concurrency (CTC), No. CON13-0004, dated December 27, 2013. The CTC determined that roadway capacity is reserved for the project. The proposed project would generate 6.06 net new trips after counting the current two on-site residences, and would generate six new PM weekday peak hour trips. Exhibit 9. The City determined that traffic modeling for developments generating less than 30 net new trips is not required. *Exhibit 5; Exhibit 11; Exhibit 16, Staff Report, page 13.*

Landscaping, Tree Retention, and Open Space

15. Subdivisions in the SF-S zone must retain a minimum of 30 percent of the total caliper of existing significant trees outside of critical areas and buffers. The Applicant has provided a Conceptual Building, Access & Utility Plan that shows existing trees and trees to be preserved. Approximately 23 percent of the total existing tree caliper would be retained within the proposed common open-space areas. IMC 18.12.1385.B allows the Planning Director/Manager to reduce tree-retention requirements up to a 50 percent where: the intent of chapter 18.12 IMC is met; the modification incorporates the retention of groupings of smaller trees; the modification is necessary due to size, shape, topography or location of the subject property that may jeopardize reasonable use of the property; and the modification is necessary to provide solar access. Because of the presence of wetland and wetland buffer covering approximately 50 percent of the site, the Applicant has proposed to plant 300 native trees and 698 shrubs on-site, and the City has concurred with the reduction in tree retention. The Applicant would protect trees to be retained by protective fencing where needed and by limiting clearing/grading around protected trees.

The proposed development would not impact any scenic corridors or views. *Exhibit 5; Exhibit 6; Exhibit 16, Staff Report pages 9, 11, 12, and 16.*

16. The landscape plan depicts eight-foot side yard setbacks adjacent to existing single-family residences to the north and south of the proposed development, and would be landscaped and fenced. The Applicant would construct a wood fence along the common property line with adjacent residents. *Exhibit 6; Exhibit 16, Staff Report, page 9.*
17. Cluster development must have a minimum of 15 percent of the net site area as common useable space. *IMC 18.07.420.B.4.b.* Two open-space tracts would be provided for a total of 23 percent of net site area. Tract B, at 6,187 square feet, would be located in the southeastern portion of the proposed plat next to Lot 8, and Tract C, at 9,255 square feet, would be located in the northeast portion of the site and would wrap around Lot 1 to the rear of the proposed lots. Tracts B and C would be held in common ownership. A four-foot wide crushed-rock path would connect the open-space tracts abutting Lots 1 and 8. *Exhibit 4 (Sheet 2); Exhibit 16, Staff Report, pages 6, 7, and 16.*

Utilities

18. Mr. Rosen testified that City water and sewer utilities exist along Front Street South and that there is sufficient capacity and infrastructure for the proposed development. The Applicant would pay impact fees for each residential unit for Transportation, Fire, Schools, Parks, General Government (SEPA requirement), and Police (SEPA requirement) at the time of building-permit issuance. The Applicant would receive credit for two existing single-family residences on the subject property. The Applicant would provide a pedestrian connection between the front doors of the residences to the sidewalk along Front Street South to provide safe walking conditions. Mr. Rosen testified that Clark Elementary and Issaquah Valley Elementary, Issaquah Middle School, and Issaquah High School are all located within a mile of the proposed development. He testified that public transit is available with a quarter of a mile. *Exhibit 4 (Sheet 2); Exhibit 16, pages 14, 15, and 17; Testimony of Mr. Rosen.*
19. If the Applicant posts “No Parking-Fire Lane” signs along the residences’ driveways, fire sprinklers will not be required. The Applicant would install fire sprinklers in dwelling structures that exceed 5,000 square feet, including garages. Mr. Rosen testified that Eastside Fire & Rescue may require access to the driveways. This would be determined at the time of building-permit issuance. *Testimony of Mr. Rosen*

Public and Applicant Comment, and Staff Response

20. The City received written public comments on the application about lack of building plans, adequacy of the City’s River & Streams Board review, landscape screening, and the need for a perimeter wood fence. The City provided written responses in the staff report, including explanations that building plans are not required for preliminary plat review, that the Applicant has submitted more detailed landscape plans, and that a privacy fence would be required. Mostafa Ghoreishi, Applicant, testified concerning

proposed Condition 14, which requires three feet of landscape screening between the trail and the abutting residences. Tom Redding, Applicant's Engineer, testified that there should be a four-foot trail with eight feet of landscaping. Mr. Rosen testified that the trail needs to be screened from the adjacent residence. The Applicant and the City agreed that Condition 14 should be amended to delete the reference to three feet to allow flexibility in locating the trail at the time of building permit review. Mr. Rosen also testified that the common open-space tracts would need to be maintained by a Homeowners' Association (HOA) with a condition. He testified that proposed Condition 17 identifies a five-foot storm easement along the common side lot lines where the structures are not attached, and would require that this easement be revised to allow for maintenance of the building walls. All easements shown on the final plat should be incorporated into the Covenants, Conditions, and Restrictions (CC&Rs) of the HOA to provide notice to prospective purchasers and an enforcement mechanism. *Exhibit 16, Staff Report, pages 3 and 4; Testimony of Mr. Ghoreishi; Testimony of Mr. Redding; Testimony of Mr. Rosen.*

City Staff Recommendation

21. City staff determined that, with proposed conditions, the proposal would be consistent with the Issaquah Comprehensive Plan, Issaquah Land Use Code, and other application development regulations, including chapter 18.13 IMC (Subdivision Code) and RCW 58.117.110 (Washington State Subdivision Code). City staff recommended approval of the preliminary plat. *Exhibit 16, Staff Report, page 15 to 18; Testimony of Mr. Rosen.*

CONCLUSIONS

Jurisdiction

The Hearing Examiner has authority to hear and approve, conditionally approve, or disapprove the preliminary plat request after review of the preliminary plat, the administration's recommendation, testimony, and exhibits submitted at the public hearing. The Hearing Examiner makes the final decision on preliminary subdivisions. *Issaquah Municipal Code (IMC) 18.03.060.B; 18.03.170; 18.04.490.C.1; 18.13.140.A.* Review for cluster development approval shall occur within the existing procedure required for the application. *IMC 18.078.420.B.*

Criteria for Review

Preliminary Plat

Preliminary plat proposals are reviewed through the Modified Level 4 review process and must comply with all the standards and criteria set forth in chapter 18.13 IMC. *IMC 18.04.480 and 18.04.490.C.1.*

The standards and criteria regarding preliminary plats set forth in chapter 18.13 IMC are established to promote the orderly and efficient division and re-division of land within the city, to avoid placing undue and unnecessary burdens on both the Applicant and the City, and to promote the public health and general welfare, complying with the provisions of chapter 58.17 RCW. The criteria for review of a preliminary plat are set forth in RCW 58.17.110(2), as follows:

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A proposed subdivision and dedication shall not be approved unless the city, town, or county legislative body makes written findings that:

- (a) Appropriate provisions are made for the public health, safety, and general welfare and for such open spaces, drainage ways, streets or roads, alleys, other public ways, transit stops, potable water supplies, sanitary wastes, parks and recreation, playgrounds, schools and school grounds and all other relevant facts, including sidewalks and other planning features that assure safe walking conditions for students who only walk to and from school; and
- (b) The public use and interest will be served by the platting of such subdivision and dedication.

RCW 58.17.110(2).

Prior to any approval of the preliminary plat, all minimum street and utility improvements, or reasonable conditions deemed necessary to fulfill the purpose of the subdivision code, shall be specified by the Hearing Examiner, and the Applicant shall be advised of such. *IMC 18.13.140.B.*

Cluster Housing

Approval for a cluster development shall be granted only if all the following criteria are met:

1. Minimum Area: A minimum of two (2) acres is required for a cluster development; however, there is no minimum lot size for individual units within the development.
2. Density: Overall density must not exceed density of underlying zoning district.
3. Consistency with Policies: The proposed development will be consistent with the general purpose, goals, objectives, and standards of the Comprehensive Plan, the City's subdivision regulations (chapter 18.13 IMC), this Code and all other pertinent rules or regulations, whether local, state or federal.
4. Development Standards: Required development and design standards for cluster housing are established in the District Standards Table (IMC 18.07.360), and based upon the underlying district standards for the parcel.
 - a. Critical Areas: When critical areas are present, such critical areas and their buffers shall be used to calculate the pervious surface requirement. Environmentally constrained land shall not be used for subdivision of individual lots, and shall be held in a critical area tract or other protection method.
 - b. Common Usable Open Space: The cluster development shall have a minimum of fifteen (15) percent of the net site area as common usable open space.
 - c. Setbacks at exterior site boundaries, where the zoning is different than the abutting zoning, shall be the greater of the setback required by the site's zoning or the setback required by the adjacent zoning. There are no minimum interior setbacks, except those established by other requirements, such as building code, easements and critical areas.
 - d. Pervious and impervious surface requirements are equal to underlying zone for the gross site, prior to subdivision or other actions. There are no minimum requirements for pervious and impervious ratios on individual lots within the cluster development.
5. Landscape Plan: Residential projects developed as a cluster development (this section) shall be required to submit a landscape plan per IMC 18.12.070 and a Building Permit(s) shall not be

issued until the landscaping plan has been approved. The landscaping plan shall be fully detailed as required by the provisions of the landscaping chapter and shall be subject to the approval of the Planning Director/Manager. Minimum standards for cluster development projects shall include:

- a. Landscaping of all building setbacks and internal areas between buildings except for ingress and egress (driveways and sidewalks) shall be as required for multifamily residential uses in IMC 18.12.070, Schedule – General requirements by landscape type.
- b. Landscaping on the exterior periphery yards of a cluster development project shall include a combination of coniferous and deciduous trees, shrubs and ground cover.
- c. The minimum pervious area established by the underlying zone of the clustered development shall be fully landscaped. Critical areas and their associated buffers (i.e., steep slopes, wetlands, etc.) retained or recreated as native forest may count towards the required pervious area and need not be landscaped. Enhancement of those critical areas, including critical area buffers, may be required if they are counted towards required buffering.

6. Impacts:

- a. Neighborhood: The proposed clustering of the development will not have a substantial adverse impact on adjacent property, the character of the neighborhood or community, traffic conditions, parking, utility facilities, or other elements affecting the public health, safety and general welfare.
- b. Environment: The proposed cluster development will not result in the destruction, loss, or damage of any scenic corridor or Issaquah Treasure as identified in the City's Comprehensive Plan.
- c. Services: The proposed cluster development will be adequately served by essential public facilities and services (such as highways, streets, parking spaces, police and fire protection, drainage structures, refuse disposal, water, sewers and schools) or the persons or agencies responsible for the establishment of the proposed use will adequately provide for such services.

7. Implementation:

- a. Unit Types: Developments proposed under the cluster provision may use the zero lot line provision, single family semidetached (common wall) units or other methods or combinations, provided all the approval criteria established for those housing types and cluster development approval criteria are met.
- b. More Than One (1) Zoning District: A development which includes more than one (1) zoning district may use the cluster provision and may site the clustered units in one (1) or all zoning districts within the development. Overall density of the cluster development cannot be more than the combined total for all included district properties. However, units can be sited in one (1) or all zoning districts.

8. Zero Lot Line Standards: The following are additional approval criteria for zero lot line cluster development:

- a. Lot Coverage/Impervious Surface: The impervious surface on the original parcel before subdividing shall not exceed those standards established in the District Standards Table (IMC 18.07.360).
- b. Maintenance and Drainage Easements: A perpetual easement at least five (5) feet wide for maintenance, eaves overhang, and drainage shall be provided on the lot adjacent to the zero lot line property line which, with the exception of walls and/or fences, shall be kept clear of structures. This easement shall be shown on the plat and incorporated into each deed transferring title of the property. The wall shall be maintained in its original

color and treatment unless otherwise agreed to in writing by the two (2) affected lot owners. Eaves, but no other part of any structure, may protrude across a side lot line, and such protrusion shall not exceed eighteen (18) inches. Water runoff from the dwelling placed on the lot line is limited to the easement areas. An alternative to having an easement on the adjacent lot is to set back the dwelling unit two (2) to five (5) feet from the lot line so access can occur on each lot, and then give the adjacent lot use of this area through an easement in the setback area.

c. Platting Requirements: Each dwelling shall be located on its own individual platted lot. The final plat or short plat shall provide a plan, drawn to scale as required by the current subdivision regulations within this Code (chapter 18.13 IMC), indicating the exact location and building footprint of all structures proposed to encroach within the required setback, the zero lot lines, and the related easements.

d. Setbacks: See IMC 18.07.360, District standards table.

IMC 18.07.420.B.

The criteria for review adopted by the Issaquah City Council are designed to implement the requirement of chapter 36.70B RCW to enact the Growth Management Act. In particular, RCW 36.70B.040 mandates that local jurisdictions review proposed development to ensure consistency with City development regulations, considering the type of land use, the level of development, infrastructure, and the characteristics of development. *RCW 36.70B.040.*

Conclusions Based on Findings

1. **With conditions, appropriate provisions would be made for the public health, safety, and general welfare, and appropriate provisions would be made for open spaces, drainage ways, streets, transit stops, potable water supplies, sanitary wastes, parks and recreation, schools and school grounds, and all other relevant facts.** The property is designated Low Density Residential by the City Comprehensive Plan. The LDR designation provides for a variety of housing types and densities, while also protecting critical areas. The Applicant would protect Tract A, a critical areas tract, with a Native Growth Protection Easement. Open space would be provided within Tracts B and C and would be placed in common ownership through a Homeowners' Association, along with the common driveway and stormwater facilities. Residential development is permitted within the SF-S zoning district at a maximum density of 4.5 du/acre. The proposed development density, with cluster housing, would be 3.76 lots per acre. The Applicant would control stormwater runoff by infiltration on-site or by the use of dispersion trenches. The City would provide water and sewer service. Schools are located within a mile of the proposed development and the Applicant would provide safe pedestrian access for students to Front Street South. Public transit is available within a quarter mile. The Applicant would pay transportation, fire, schools, park, general government, and police impact fees at the time of building-permit issuance. The City has issued a certificate of transportation currency. The proposed project would not impact any wetlands, but would impact on-site wetland buffers. The Applicant would utilize buffering enhancement and mitigate impacts by enhancing existing on-site wetlands and buffers. The Applicant has provided a wetland-buffer reduction and mitigation plan and

landscaping plans. The Applicant has requested a deviation from street standard frontage improvements, which would require a two-foot dedication by the Applicant to provide a sufficient street right-of-way. The proposed development would meet the City's design standards, as well as provide adequate parking, landscaping, and tree retention. The City has concurred with the Applicant's request to reduce the tree-retention requirements from 30 percent to 23 percent of the existing tree caliper. Conditions are necessary to ensure compliance with MDNS conditions; adequate provision for landscaping, impact fees, and wetland-buffer reduction mitigation and enhancement; stormwater control; water and sewer connections; creation of an HOA; and the incorporation of all easements shown on the final plat into the Covenants, Conditions, and Restrictions (CC&Rs) of the HOA. *Findings 1, 3-21.*

2. **With conditions, the public use and interest would be served by the platting of such subdivision and dedication.** The City provided adequate notice and opportunity to comment on the request. The City reviewed the proposed plat and issued a MDNS, with conditions to mitigate potential significant adverse impacts. Residential development is allowed within the SF-S zoning district at a maximum density of 4.5 du/acre. The proposed development density, with cluster housing, would be 3.76 lots per acre. Public services, including water and sewer, are available. Single-family residences are located to the north and south of the proposed development. The exterior site boundary side yard setbacks would be landscaped, and a six-foot high wood fence would be constructed along the side property boundaries for screening from the adjacent residential properties. Conditions are necessary to ensure compliance with MDNS conditions; adequate provision for landscaping, impact fees, and wetland-buffer reduction mitigation and enhancement; stormwater control; street frontage dedication; and water and sewer connections. *Findings 1 – 21.*
3. **With conditions, the proposed development meets the criteria for approval for a cluster development.** The proposed development is consistent with the City's Comprehensive Plan. The LDR designation is designed to protect critical areas by providing for low-density residential development, with the intent to protect environmentally critical areas from impacts associated with more intensive development. The site is larger than the two-acre minimum and would not exceed the density of the underlying SF-S zone of 4.5 lots per acre. The proposed development protects the on-site wetland and, although the wetland buffer would be reduced, the Applicant has provided a wetland and buffer enhancement plan. The proposed development provides 23 percent of net site area as common usable open space in Tracts B and C. The total impervious surface area would be approximately 24 percent. The Applicant has provided detailed landscape plans. The Applicant submitted an Environmental Checklist, and the City issued a MDNS with conditions to mitigate probable, significant, adverse impacts, including those on wetlands, traffic, and public services. Cluster development allows the use of zero lot lines and single-family, semi-detached (common wall) units. Each residence would be located on its own individual lot and would comply with cluster-

development setback requirements. The Applicant would provide maintenance and drainage easements. Conditions are necessary to ensure compliance with MDNS conditions; adequate provision for landscaping, impact fees, and wetland-buffer reduction mitigation and enhancement; stormwater control; and water and sewer connections. *Findings 1, 3-21.*

DECISION

Based on the preceding Findings and Conclusions, the request for a preliminary plat to subdivide 2.13 acres into eight cluster-housing, single-family lots with three tracts at 1025/1035 Front Street South, is **APPROVED**, subject to the following conditions:

1. The exterior site boundary side yard setbacks shall be landscaped and a six-foot wood fence constructed by the Applicant along the side property boundaries to adequately screen the proposed development from the adjacent single family residential properties.
2. Final wetland/wetland buffer enhancement plans are required for approval by the Issaquah Development Services Department (DSD) prior to issuing construction permits. Final plans shall include a planting plan and a five-year monitoring/maintenance plan with performance standards for monitoring success of the enhancement planting. The plans shall meet standards of the King County Critical Areas Mitigation Guidelines for the planting density and monitoring performance standards.
3. The wetland/wetland buffer enhancement plans shall be revised to include trees and/or willow stakes shall be planted in the wetland area to out-compete invasive plant species and to increase the cover and structural diversity of vegetation in the wetland to improve functions over the existing conditions.
4. The Applicant shall provide an as-built plan of the wetland/wetland buffer enhancement and the consulting biologist shall verify in writing that the planting has been installed per plan prior to final plat approval.
5. A five-year monitoring/maintenance period is required. The Applicant shall provide a bond amount equal to 50 percent of the cost of plants, labor and the five-year monitoring/maintenance cost prior to final plat approval.
6. A wood split rail fence shall be installed along the edge of the wetland buffer (Tract A) to control circulation and limit human and pet encroachment into the wetland, prior to final plat approval.
7. Permanent survey stakes shall be set to delineate the boundaries between critical area tracts and adjoining properties, prior to final plat approval.
8. The Applicant shall provide certification from a surveyor that development activity and improvements on individual lots do not extend in critical area buffers and common open space areas, prior to final plat approval.
9. Signs between critical area tracts and adjacent properties shall be installed, explaining the type and value of the critical area, prior to final plat approval.

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10. The final plat shall include Native Growth Protection Easement (NGPE) language to protect the critical area tract (Tract A) from development and alteration of vegetation in perpetuity.
11. The driveway access shall be signed and limited to right-in/right-out turns only.
12. The Applicant shall apply for a Site Works Permit to construct the roads, utilities and grading of the lots. A final plat review will follow after subdivision infrastructure has been installed or bonded for prior to recording.
13. Proposed lot lines would cross/conflict with the two existing single family homes on the site. The two existing residences shall be removed prior to recording the final plat.
14. The common open space areas along the street frontage are connected to the common open space adjacent to the wetland buffer by a trail located adjacent to Lots 1 and 8. The 4-foot wide crushed rock path would directly abut the residences on Lots 1 and 8. This could result in a privacy issue for the residents on Lots 1 and 8 and discourage the common use of the open space areas as intended. The site plan shall be revised to include landscape screening between the trail and the abutting residences.
15. The common open space tracts (Tracts B and C) will be held in common ownership and are intended to be accessible to all residents of the development. The maintenance of the common open space areas will be the responsibility of the residents. The final plat shall include notes for the common open space Tracts B and C; to clarify common ownership, common access, and common maintenance responsibilities.
16. Improvement of the common open space areas and landscaping is part of the preliminary plat improvements and therefore shall be installed or bonded for prior to recording of the final plat.
17. The preliminary plat plans show a five-foot storm easement along the common side lot lines where the structures are not attached. This easement shall be revised to also allow for maintenance of the building walls.
18. The final plat shall indicate the exact location and building footprint of all structures proposed to encroach within the required setback, the zero lot lines, and the related easements. Easements shall be granted to each of the properties using the private street/road for purposes of access (ingress and egress) and utilities.
19. The proposed residences shall be located facing toward Front Street South. To encourage a street orientation, the front doors of the residences shall be visible and clearly oriented to the street. This shall be reviewed with building permits.
20. To ensure safe and efficient pedestrian access, there shall be a clear pedestrian connection between the front doors of the residences to the sidewalk along Front St S. This may be accomplished with a combination of sidewalks, change of paving materials, or paint striping/patterns, subject to the approval of the Development Services Department. The pedestrian connections shall be approved prior to recording of the final plat.


21. To minimize the predominance and visibility of parking areas, the residential garages shall be recessed or setback from the front door entries to the residences.
22. Driveways shall be a minimum of 18 feet in length to ensure adequate on-site parking and that parked vehicles will not encroach into the common drive access.
23. In order to protect the trees that have been identified to be retained from construction impacts, the trees proposed shall be outside clearing/grading limits or will require protective fencing, and clearing/grading will be limited around protected tree areas to ensure tree health and retention. An arborist report may be needed to assess trees proximate to clearing/grading activities. Tree protection measures shall be reviewed with construction plans and shall be installed prior to clearing/grading activity.
24. The Applicant shall remove the existing chain link fence along the wetland/wetland buffer area abutting City property, so it isn't a barrier to wildlife movement.
25. The Applicant has requested a deviation from the street standard frontage improvements, to not install a 5-foot wide planter strip between the curb and sidewalk. In order for the City to construct street improvements in the future along Front St S, in accordance with the current street standards, the Applicant shall dedicate 2 feet to provide sufficient right-of-way width.
26. Stormwater facilities shall meet the guidelines and requirements of the 2009 King County Surface Water Design Manual (2009 KCSWDM) as adopted by the City of Issaquah and the City of Issaquah Surface Water Design Manual Addendum 2011. Additional soil infiltration and material testing is required to determine the proposed water quality design meets the code requirements.
27. The following impact fees shall be required and the applicable cost calculated at the time of issuance of building permits for each residential unit: Transportation, Fire, Schools, Parks, General Government (SEPA), Police (SEPA).

Construction and Building Permit Conditions

28. New water meters shall follow City of Issaquah 2012 water standards. City of Issaquah Public Works Operations (PWO) will install new service runs and meters. For existing meters, PWO will install all meter upgrades.
29. Prior to demolition of the existing residences: 1. An asbestos survey shall be conducted by an AHERA - certified building inspector and filed with the Puget Sound Clean Air Agency (206-515-2800). 2. A Notice of Intent SHALL be filed with the Puget Sound Air Pollution Control Agency prior to any demolition work being done. A copy of the Notice of Intent shall be kept on-site and be available for review by inspection personnel. 3. All asbestos shall be removed prior to demolition.
30. A foundation soils report by a licensed WA state geotechnical engineer shall be required at the time of building permit submittal. A peer review of the submitted soils report by a second engineer may be required on some sites.

31. The Building Code [2012 IRC Building Code, Table R 302.1(1)] limits wall openings (windows), eave overhangs, and requires fire-rated walls where buildings aren't separated by a minimum of 6 feet. The Applicant shall comply with these standards with building permit applications.
32. If you post "No Parking- Fire Lane" signs along the driveway to the homes then the homes will not have to be equipped with fire sprinklers due to non approved access. If you do not want to install the signs then the distance from an approved access road (the main road) to the furthest wall of the home will exceed 150 feet allowed by code before a sprinkler system is required.
33. One and two family dwelling structures that exceed 5000 sq. ft. (this number includes the garage) shall have fire sprinklers installed per NFPA 13-D as per City ordinance.
34. A Homeowners' Association (HOA) shall be formed to maintain the open space tracts, driveway, and stormwater facilities.
35. All easements shown on the final plat shall also be incorporated into the Covenants, Conditions, and Restrictions (CC&Rs) of the HOA.

Decided this 10th day of March 2014.


THEODORE PAUL HUNTER
Hearing Examiner
Sound Law Center